

(2014) 09 KAR CK 0197

In the Karnataka High Court

Case No : Writ Petition No. 42743 of 2012 (PIL-LB-BMP), Writ Petition Nos. 29393-29531 of 2013, Writ Petition Nos. 46496-46718 of 2014 and C/ W Review Petition No. 265 of 2013

Shantha Mary

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 25-09-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 23 Rule 3B, Order 47 Rule 1, 11, 114
Constitution of India, 1950 — Article 21
Karnataka Municipal Corporation Act, 1976 — Section 176, 176(6)

Citation : (2014) 4 AKR 513

Hon'ble Judges : D.H. Waghela, C.J.; Ashok B. Hinchigeri, J

Bench : Division Bench

Advocate : S. Sunil Dutt Yadav and K.B.S. Manian, Advocate for the Appellant; R. Devdas, PGA a/w Shweta Krishnappa, Adithya Sondhi, Senior Advocate, Subramanya R., Ashok Harnahalli Associates, S.S. Nagananda, Senior Advocate, S. Sriranga, Just Law, Aniyam Joseph, B.C. Thiruvengadam, Thiru and Thiru and K. Krishna, Advocate for the Respondent

Judgement

Ashok B. Hinchigeri, J.—W.P. Nos. 42743/2012, 29393-29531/2013 and 46496-46718/2014 are filed by those persons, who are residing in the temporary make-shift tin sheds, erected by Bruhat Bengaluru Mahanagara Palike ("B.B.M.P." for short) at Vivekanagar, Bangalore. The petitioners' case in brief is that the Bangalore City Corporation, the predecessor of B.B.M.P., formulated a scheme for the construction of 1512 flats in 42 blocks of its land measuring 22 acres in Koramangala, Bangalore for the purpose of providing shelter to the Economically Weaker Sections (EWS) of society in 1983-84. On the completion of their construction in 1993-94, the B.B.M.P. issued the letters of allotment and executed lease-cum-sale agreements in respect of individual flats to the respective allottees. Due to sub-standard construction, one after the other block started collapsing. Majority of the original allottees gave up their possession through the power of attorney, etc. Out of 1512 tenements, only a few

numbering about 230 were occupied by the original allottees. Owing to poverty, the petitioners continued to live in the EWS quarters, even when they were unfit for human occupation. The B.B.M.P. demolished the remaining flats and shifted the petitioners and other actual occupants to the tin sheds erected on the same land with the promise that they would be provided with the houses on the same land to be constructed either by B.B.M.P. itself or through a joint venture project.

2. The petitioners have produced the identity cards issued by B.B.M.P. in Annexure-A series, ration cards in Annexure-B series and election identity cards in Annexure-C series to evidence their possession of EWS quarters.

3. The B.B.M.P. initially passed the resolution on 31.5.2004 to the effect that the residential tenements would be reconstructed and given to the original allottees, who were displaced and rendered homeless on account of demolition of dilapidated EWS quarters. Subsequently, the actual occupants raised the protest, as they are the real displaced persons. Taking note of the grievance of the actual occupants, the B.B.M.P. modified its earlier resolution, dated 31.5.2004 by passing the resolution on 28.6.2005 providing for re-settlement of those, who were evicted from EWS quarters. It calls for identifying present residents therein, even if they are not the original allottees for the purpose of allotting the flats in the residential complex. On 29.7.2005 it passed another resolution for evicting the residents from the dilapidated EWS quarters as a precautionary measure. It also provides for the allotment of flats to 1512 original allottees once the residential complex is constructed. Further, it provides for the construction of the residential complex on the remaining part of the land in question for allotting flats to the erstwhile residents (tenants).

4. Some of the original allottees filed W.P. No. 45915/2011, "seeking inter alia, a direction to the Government to allocate funds for expeditiously starting reconstruction of the demolished EWS quarters. The said proceedings culminated in the settlement amongst the petitioners in the said case, B.B.M.P. and M/s. Maverick Holding & Investments Pvt. Ltd. The said settlement inter alia provides for building a residential complex for allotting the flats therein to the original allottees and for putting up a commercial complex for the benefit of said property developer. In the wake of the said arrangement, the Division Bench held that there will be no justification for any person to remain on the present site beyond 8.10.2012.

5. The petitioners in the instant case have approached this Court contending that the original allottees are not the only beneficiaries of the rehabilitation project. As the parties in W.P. No. 45915/2011 have willfully suppressed the facts relating to resolutions of B.B.M.P. to confer the benefits upon the actual residents of EWS quarters, the order passed in the said writ petition (W.P. No. 45915/2011) is not binding upon the petitioners in the present case. The prayers in this writ petition read as follows:-

"a) Wherefore it is prayed that this Honourable Court be pleased to grant

appropriate order in the nature of a writ of declaration that the Order dated 24th August, 2012 passed in WP No. 45915/2011 passed by the High Court of Karnataka at Bangalore is not binding on the petitioners; and

(ai) Issue writ of certiorari to quash the resolution of the BBMP vide No. 13 (306) dated 30.10.2006 enclosed as Annexure-V, and consequently quash the Concession Agreement dated 12.1.2012 as per Annexure-AD.

(aii) Issue writ of certiorari to quash the Government Order No. NAAEE 261 MNG 2006 Bangalore dated 26.9.2008 enclosed as Annexure-Z.

(aiii) Issue writ of mandamus to Respondent No. 1 and 2 to construct shelters in the schedule property for the benefit of the Petitioners and persons similarly situated in terms of the resolution dated 29.7.2005 vide Subject No. 1/05-06 produced as Annexure-J.

b) Without prejudice to what is stated above this Honourable Court be pleased to direct the Respondent no. 2 to extend the benefits of re-allotment to the Petitioners and other persons who have been given certificates of residence by the B.B.M.P. enclosed as Annexure A series.

c) Without prejudice to what is stated above, this Hon''ble Court may be pleased to issue a writ of mandamus directing the Respondent nos. 1 and 2 to make adequate provisions for shelter to the Petitioners, and till such measures are made, to ensure that they are adequately rehabilitated as per the provisions of the Resettlement & Rehabilitation Policy.

d) Pass such further order or orders as this Hon''ble Court may deem fit and proper in the facts and circumstances of the present case and in the interest of justice."

6. R.P. No. 265/2013 is filed by eight persons, whose grievance is that though they were not made parties to W.P. No. 45915/2011, they have suffered adverse consequences, as a result of passing the final order, dated 24.8.2012 in the said petition. The review petitioners claim that they are the erstwhile residents of tin sheds erected by B.B.M.P. It is their case that the original allottees did not make necessary payments and did not comply with the conditions of lease-cum-sale agreement.

7. Sri Sunil Dutt Yadav, learned counsel for the petitioners submits that the second respondent-B.B.M.P. has passed the resolution on 28.06.2005 for accommodating both the original allottees and occupants like petitioners in the residential complex to be constructed. Subsequently, on 29.07.2005, the B.B.M.P. has passed the resolution modifying the earlier resolution, dated 28.06.2005, providing for accommodating the occupants like petitioners by putting up a residential complex in the remaining portion of the land in question. The B.B.M.P. thereafter conducted a survey and identified the residents of the flats on 14.11.2003 and found that there were about 1.101 tenants. Learned counsel submits that the B.B.M.P. has issued identity cards to the petitioners on

15.06.2007.

8. Learned counsel submits that the aforesaid resolutions are not rescinded. The petitioners have the legitimate expectation that the B.B.M.P. would honour its resolutions by accommodating the petitioners in the residential complex to be constructed. He relies on the Apex Court's judgment in the case of Navjyoti Co-operative Housing Society etc. Vs. Union of India and Others, . The relevant paragraph of the said decision is extracted hereinbelow:

"16. It may be indicated here that the doctrine of "legitimate expectation" imposes in essence a duty on public authority to act fairly by taking into consideration all relevant factors relating to such "legitimate expectation". Within the conspectus of fair dealing in case of "legitimate expectation", the reasonable opportunities to make representation by the parties likely to be affected by any change of consistent past policy, come in. We have not been shown any compelling reasons taken into consideration by the Central Government to make a departure from the existing policy of allotment with reference to seniority in Registration by introducing a new guideline. On the contrary, Mr. Jaitley the learned Counsel has submitted that the DDA and/or Central Government do not intend to challenge the decision of the High Court and the impugned memorandum of January 20, 1990 has since been withdrawn. We therefore feel that in the facts of the case it was only desirable that before introducing or implementing any change in the guideline for allotment, an opportunity to make representations against the proposed change in the guideline should have been given to the registered Group Housing Societies, if necessary, by way of a public notice."

9. Learned counsel submits that the respondent authorities are obliged to rehabilitate the petitioners in the letter and spirit of National Rehabilitation and Resettlement Policy, 2007 issued by the Ministry of Rural Development.

10. He submits that the petitioners were thrown out by using the police force. He would assert that the petitioners are dispossessed without following the due process of law and that, that is why they are entitled to allotment of flats in the residential complex to be constructed.

11. Sri K.B.S. Manian, learned counsel for the review petitioners in R.P. No. 265/2013 submits that the B.B.M.P. has suppressed material facts in its statement of objections filed in W.P. No. 45915/2011. He submits that the order in the said petition is passed on the basis of the settlement, which is void in the eyes of law. He submits that no census of the actual occupants is made available to this Court in the proceedings in W.P. No. 45915/2011. The settlement arrived at and the order passed thereon in the said proceedings is bad for want of notice to the occupants. He would contend that the order, dated 24.08.2012 passed in W.P. No. 45915/2011 is liable to be reviewed and recalled, as fraud is played on the Court. He submits that the petitioners can always seek a review of the order invoking the provisions contained in Order 23 Rule 3B of Civil Procedure Code,

1908, as the review petitioners and the present writ petitioners were not put on notice before recording the compromise in W.P. No. 45915/2011. He read out the provisions contained therein, which are extracted hereinbelow:

"3B. No agreement or compromise to be entered in a representative suit without leave of Court-(1) No agreement or compromise in a representative suit shall be entered into without the leave of the Court expressly recorded in the proceedings; and any such agreement or compromise entered into without the leave of the Court so recorded shall be void.

(2) Before granting such leave, the Court shall give notice in such manner as it may think fit to such persons as may appear to it to be interested in the suit:"

12. Learned counsel submits that the B.B.M.P. is unnecessarily entering into the public-private partnership, which is putting the petitioners to hardship and prejudice.

13. Sri Aditya Sondhi, learned Senior Counsel appearing for M/s. Ashok Haranahalli Associates for the second respondent B.B.M.P. submits that the doctrine of res judicata is squarely applicable to the case on hand in as much as the second public interest petition is not maintainable on the very same cause of action. The judgment rendered in previous public interest petition operates as judgment in rem. The order passed in the said PIL is binding on all the parties; matter cannot be reopened at the instance of some persons, who were not parties to the said PIL. In support of his submissions, he brings to our notice the Hon'ble Supreme Court's judgment in the case of State of Karnataka and Another Vs. All India Manufacturers Organization and Others, . Paras 32, 33 and 34 of the said decision, relied upon by him, are extracted hereinbelow:

"32. Res judicata is a doctrine based on the larger public interest and is founded on two grounds: one being the maxim nemo debet bis vexari pro una et eadem causa ("No one ought to be twice vexed for one and the same cause") and second, public policy that there ought to be an end to the same litigation. It is well settled that Section 11 of the Civil Procedure Code, 1908 (hereinafter "the CPC") is not the foundation of the principle of res judicata, but merely statutory recognition thereof and hence, the Section is not to be considered exhaustive of the general principle of law. The main purpose of the doctrine is that once a matter has been determined in a former proceeding, it should not be open to parties to re-agitate the matter again and again. Section 11 of the CPC recognises this principle and forbids a Court from trying any suit or issue, which is res judicata, recognising both "cause of action estoppel" and "issue estoppel". There are two issues that we need to consider, one, whether the doctrine of res judicata, as a matter of principle, can be applied to Public Interest Litigations and second, whether the issues and findings in Somashekar Reddy (supra) constitute res judicata for the present litigation.

Explanation VI to Section 11 states:

"Explanation VI. Where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating."

33. Explanation VI came up for consideration before this Court in *Forward Construction Co. and Ors. v. Prabhat Mandal and Ors.* (hereinafter "*Forward Construction Co.*"). This Court held that in view of Explanation VI, it could not be disputed that Section 11 applies to Public Interest Litigation, as long as it is shown that the previous litigation was in public interest and not by way of private grievance. Further, the previous litigation has to be a bona fide litigation in respect of a right which is common and is agitated in common with others.

34. As a matter of fact, in a Public Interest Litigation, the petitioner is not agitating his individual rights but represents the public at large. As long as the litigation is bona fide, a judgment in a previous Public Interest Litigation would be a judgment in rem. It binds the public at large and bars any member of the public from coming forward before the court and raising any connected issue or an issue, which had been raised/should have been raised on an earlier occasion by way of a Public Interest Litigation. It cannot be doubted that the petitioner in *Somashekar Reddy (supra)* was acting bona fide. Further, we may note that, as a retired Chief Engineer, Somashekar Reddy had the special technical expertise to impugn the Project on the grounds that he did and so, he cannot be dismissed as a busybody. Thus, we are satisfied in principle that *Somashekar Reddy (supra)*, as a Public Interest Litigation, could bar the present litigation."

14. Learned Senior Counsel submits that the unauthorised occupants of any public property have no vested right to demand that they be rehabilitated in a particular location.

15. He submits that the doctrine of legitimate expectation has no application for the case on hand. There can be no legitimate expectation *dehors* law. In this regard, he sought to draw support from the Apex Court's judgment in the case of *Ram Pravesh Singh and Others Vs. State of Bihar and Others*, . Para 14 of the said decision read out by him is as follows:

"14. What is legitimate expectation? Obviously, it is not a legal right. It is an expectation of a benefit, relief or remedy, that may ordinarily flow from a promise or established practice. The term "established practice" refers to a regular, consistent predictable and certain conduct, process or activity of the decision-making authority. The expectation should be legitimate, that is, reasonable, logical and valid. Any expectation which is based on sporadic or casual or random acts, or which is unreasonable, illogical or invalid cannot be a legitimate expectation. Not being a right, it is not enforceable as such. It is a concept fashioned by courts, for judicial review of administrative action. It is procedural in character based on the requirement of a higher degree of fairness in administrative action, as a consequence of the promise made, or practice

established. In short, a person can be said to have a "legitimate expectation" of a particular treatment, if any representation or promise is made by an authority, either expressly or impliedly, or if the regular and consistent past practice of the authority gives room for such expectation in the normal course. As a ground for relief, the efficacy of the doctrine is rather weak as its slot is just above fairness in action" but far below "promissory estoppel". It may only entitle an expectant: (a) to an opportunity to show cause before the expectation is dashed; or (b) to an explanation as to the cause for denial. In appropriate cases, courts may grant a direction requiring the Authority to follow the promised procedure or established practice. A legitimate expectation, even when made out, does not always entitle the expectant to a relief. Public interest, change in policy, conduct of the expectant or any other valid or bonafide reason given by the decision-maker, may be sufficient to negative the "legitimate expectation".

The doctrine of legitimate expectation based on established practice (as contrasted from legitimate expectation based on a promise), can be invoked only by someone who has dealings or transactions or negotiations with an authority, on which such established practice has a bearing, or by someone who has a recognized legal relationship with the authority. A total stranger unconnected with the authority or a person who had no previous dealings with the authority and who has not entered into any transaction or negotiations with the authority, cannot invoke the doctrine of legitimate expectation, merely on the ground that the authority has a general obligation to act fairly."

16. He submits that the petitioners cannot draw any support from the resolution, dated 28.06.2005, as there is no approval of the State Government for the transfer or sale of the property in question or undivided share therein vested in favour of the original petitioners in W.P. No. 45915/2011. To advance the submission that the previous sanction of the State Government is necessary, he brings to our notice the provisions contained in Section 176(6) of the Karnataka Municipal Corporation Act, 1976, which is extracted hereinbelow:

"176. Disposal of property and interest therein:-

.....

(6) Notwithstanding anything contained in this Act,-

(a) no movable property exceeding such sum in value as may be prescribed shall be sold otherwise than by public auction;

(b) (i) no property whether movable or immovable of whatever value shall be transferred free of cost or for an upset price;

(ii) no lease of any immovable property exceeding five years shall be granted;

(iii) no immovable property shall be disposed of by sale or by other transfer,

except with the previous sanction of the Government."

17. He denies the allegation that the presence of the petitioners/unauthorised occupants in the area in question was not brought to the notice of this Court in W.P. No. 45915/2011. He brings to our notice, Clause 5(a) of the joint memo filed in W.P. No. 45915/2011, which reads as follows:

"5(a) Within 8 weeks from the decision of the this Hon"ble Court respondent No. 2 agrees to hand over clear and vacant possession of 15.64 acres of unencumbered land to respondent No. 3 in its entirety to enable respondent No. 3 to commence the project as per the concession agreement. Parties seek appropriate directions from this Hon"ble Court for effecting evacuation of occupants of the project area, many of whom are unauthorised occupants, and/or are not amongst the original 1512 allottees of the EWS apartments."

18. He also brings to our notice paras 7 and 13 of the order, dated 24.08.2012 passed in W.P. No. 45915/2011. They are as follows:

"7. We have carefully perused the terms of Exhibit-C and are satisfied that it is to the advantage of the original allottees of the subject lands. This Writ Petition is in public interest and therefore Exhibit-C shall bind all original allottees or 1512 original allottees regardless of whether they have signed Exhibit-C or not. Several of the Petitioners are present in Court and affirm the submissions made by counsel for Petitioners and counsel for newly added Respondents.

.....

13. In view of the above arrangement, we are satisfied that there will be no justification for any person to remain on the present site after six weeks from today. Accordingly, Respondent No. 2 shall have the authority to evict/eject all occupants from the present site after 8th October, 2012 and if necessary taking the aid/assistance of police force."

19. He submits that the eviction process was taken up based on the direction issued by this Court in order to provide accommodation to the original allottees at the earliest. He contends that mere issuance of identity cards to the residents of an area does not mean that some right is created in their favour in respect of the area, where they reside. He submits that no allotment of flats was made to the writ petitioners, much less any lease was executed in their favour.

20. He submits that the B.B.M.P., with the assistance of the State Government, Slum Clearance Board and Rajiv Awas Yojana Scheme, is rehabilitating the displaced families on the alternative land at Sulikunte. He further submits that the allotment of units is offered to the erstwhile unauthorised occupants, free of cost.

21. He submits that the B.B.M.P. has demonstrated its fairness in action. He submits that what the B.B.M.P. has done is absolutely in keeping with the Apex Court's judgment in the case of Olga Tellis and Others Vs. Bombay Municipal Corporation and Others, . The first portion of para 57 of that decision, relied upon by him, is as follows:

"57. To summarise, we hold that no person has the right to encroach, by erecting a structure or otherwise, on footpaths, pavements or any other place reserved or ear-marked for a public purpose like, for example, a garden or a playground; that the provision contained in section 314 of the Bombay Municipal Corporation Act is not unreasonable in the circumstances of the case; and that, the Kamraj Nagar Basti is situated on an accessory road leading to the Western Express Highway. We have referred to the assurances given by the State Government in its pleadings here which, we repeat, must be made good. Stated briefly, pavement dwellers who were censused or who happened to be censused in 1976 should be given, though not as a condition precedent to their removal, alternate pitches at Malavani or, at such other convenient place as the Government considers reasonable but not farther away in terms of distance; slum dwellers who were given identity cards and whose dwellings were numbered in the 1976 census must be given alternate sites for their resettlement; slums which have been in existence for a long time, say for twenty years or more, and which have been improved and developed will not be removed unless the land on which they stand or the appurtenant land, is required for a public purposes, in which case, alternate sites or accommodation will be provided to them....."

22. The submissions of the learned counsel have received our thoughtful consideration. The first question that falls for our consideration is whether the second public interest petition is maintainable on the same cause of action. The first public interest litigation-W.P. No. 45915/2011 was filed seeking a writ of mandamus to the respondents to allocate the funds and expeditiously start reconstruction of EWS quarters and for constituting a committee comprising of the representatives of the State and the petitioners and other eminent members of the society to monitor the reconstruction of EWS quarters and for an assurance towards the re-allotment. Recording the joint memo, the said writ petition was disposed of with the imprimatur of the Court.

23. It is trite that the judgment in previous public interest litigation operates as judgment in rem and bars subsequent public interest litigation in respect of the same subject-matter. A judgment in rem is one pronounced upon the status of some particular person or thing and which binds all persons. Those matters which were substantially in issue in the proceedings will constitute res judicata in the subsequent proceedings. In taking this view, we are fortified by the Apex Court's judgment in the case of All India Manufacturers Organization And Ors. (supra).

24. However, assuming that the second public interest writ petition is maintainable, we propose to consider the various contentions raised by the petitioners. The issuance of identity cards, ration cards, election identity cards and the favourable resolution of the B.B.M.P. do not confer any allotment rights on the unauthorized occupants. The said documents are only indicative of the possession of the unauthorized occupants. It cannot be said that the unauthorized occupants are the owners in the making of the EWS quarters. No

allotment letter, much less any agreement is executed by; B.B.M.P. or its predecessor, Bangalore City Corporation in favour of the unauthorized occupants.

25. It is also not the case of the unauthorized occupants that they have paid any consideration towards the allotment. Their status is either that of tenants under the original allottees or the unauthorized occupants.

26. Yet another aspect of the matter, which cannot be overlooked is that the B.B.M.P. has not cancelled the lease-cum-sale agreement executed in favour of the original allottees. Without cancelling them and consequently without extinguishing the proprietary rights of the original allottees in the EWS quarters, the B.B.M.P. cannot alienate the EWS quarters in favour of the unauthorized occupants or in favour of any other third party. The unauthorized occupants have not filed any suit in the civil court seeking the relief of specific performance of the agreement, if any entered into between themselves and the original allottees.

27. We are also not persuaded to accede to the request of the unauthorized occupants that they be accommodated only in the flats being constructed on the land in question on the basis of the doctrine of legitimate expectation. As held by the Apex Court in the case of Ram Pravesh Singh and Ors., (supra), the expectation should be legitimate, that is, reasonable, logical and valid. The unauthorized occupants, who have no dealings, transactions or negotiations with the B.B.M.P., cannot invoke the doctrine of legitimate expectation merely on the ground that the authority has general obligations to act fairly.

28. As yet another reason, we hold that the resolution, dated 28.6.2005 passed by B.B.M.P. cannot be acted upon. As per Section 176 of the Karnataka Municipal Corporations Act, 1976, no immovable property can be disposed of by sale or by other transfer except with the previous sanction of the Government. In the instant case, admittedly, the B.B.M.P. has not obtained previous sanction of the Government for disposing of the flats in question in favour of the unauthorized occupants.

29. The perusal of the joint memo filed in W.P. No. 45715/2011 and the Division Bench's order thereon shows that the presence of the unauthorized occupants on the land in question was indeed disclosed to the Division Bench.

30. Thus none of the submissions urged on behalf of the petitioners come to their rescue insofar as their prayer (a) to (aiii) are concerned. But it does not mean that the writ petitioners and the similarly placed tenants/unauthorised occupants are not entitled to any relief. The right to shelter is certainly within the sweep of Article 21 of the Constitution of India. As held by the Apex Court in the case of Chameli Singh and others etc. Vs. State of U.P. and another, , the protection of life guaranteed by Article 21 encompasses within its ambit the right to shelter to enjoy the meaningful right to life. The relocation of the petitioners has to be a meaningful exercise consistent with the rights to life, livelihood and dignity. In a proactive spirit and on humanitarian ground, the State Government and B.B.M.P. have identified an area of five acres at Sy. No. 122 of Sulikunte

Village, Varthur Hobli, K.R. Puram Taluk, Bangalore for rehabilitating them.

31. The time-lag between the resolutions of B.B.M.P. and the filing of these petitions as also between the order of this Court accepting public-private partnership arrangement militate against the petitioners, as far as their prayers (a) to (aiii) are concerned. While the petitioners' prayer (a) for declaration that the order, dated 24.8.2011 passed in W.P. No. 45915/2011 is not binding on the petitioners and prayers (ai) to (aiii) brought in by way of amendment cannot be acceded to, the petitioners are entitled to substantial reliefs sought in prayers (b), (c) and (d). The reliefs however are required to be moulded and granted.

32. As far as R.P. No. 265/2013 is concerned, advertence has to be made to the Apex Court's judgment in the case of Satyanarayan Laxminarayan Hegde and Others Vs. Millikarjun Bhavanappa Tirumale, wherein it is held that an error which has to be established by a long drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record.

33. The Hon'ble Supreme Court in the case of Harinagar Sugar Mills Ltd. and Another Vs. State of Bihar and Others, has held that if two views are possible on a point, the same would not be a ground for reviewing an order, as it would not fall within the scope of the review jurisdiction.

34. The Apex Court has, in Haridas Das Vs. Smt. Usha Rani Banik and Others, , held that Section 114 and Order 47 Rule 1 of C.P.C. do not postulate rehearing of the disputes because a party had not highlighted all the aspects of the case or could perhaps have argued them more forcibly and/or cited binding precedents to the Court and thereby enjoyed a favourable verdict.

35. As held by the Apex Court in S. Bagirathi Ammal Vs. Palani Roman Catholic Mission, an error contemplated under Rule 1 Order 47 of CPC for the permissibility of review must be such which is apparent on the face of the record and not an error which has to be fished out and searched. In other words, it must be an error of inadvertence. It should be something more than a mere error and it must be one which must be manifest on the face of the record. If the error is so apparent that without further investigation or enquiry, only one conclusion can be drawn in favour of the applicant, the review would lie. Under the guise of review, the parties are not entitled to rehearing of the same issue.

36. Thus the scope for reviewing an order is rather limited. The review petition is liable to be dismissed as there is no error, much less an error apparent on the face of the record.

37. In view of the facts and contentions as aforesaid, the petitions are disposed with the following order:

(i) R.P. No. 265/2013 is dismissed.

(ii) Prayer Nos. (a) to (aiii) in W.P. Nos. 42743/2012, 29393-531/2013 and

46496-46718/2014 are declined.

(iii) The B.B.M.P.'s submission that the petitioners and the similarly placed persons are being rehabilitated in Sulikunte Village without charging any amount from them is taken on record.

(iv) The submission made on behalf of the Government that, as the land in question in Sulikunte Village itself is being given for the purpose of rehabilitating the unauthorised occupants evicted from the EWS quarters, the permission of the Government under Section 176 of the Karnataka Municipal Corporations Act, 1976 is not required for the allotment of the flats in the residential complex to be constructed in Sulikunte Village is taken on record.

(v) The B.B.M.P. is directed to complete the residential complex in Sulikunte Village and hand over the flats therein to the eligible oustees on ownership basis without charging any amount from them.

(vi) It is possible that there may be some teething problems in the rehabilitation project. It is therefore open to the petitioners to represent to the Government and the B.B.M.P. for the redressal of their grievances.

(vii) The Government and the B.B.M.P. shall consider setting up the Grievance Redressal Cells in Sulikunte Village for attending to the problems of the rehabilitated persons. The problems of the rehabilitated persons (petitioners and other similarly placed persons) are required to be attended to sympathetically, pro-actively and without any loss of time.

(viii) The Government shall consider opening the schools, colleges and hospitals in Sulikunte Village, if they are already not established. The Government shall also consider increasing the frequency of the city buses to and from Sulikunte Village.

38. There is no order as to costs.